

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare -East Godavari District - Revision Petition filed Under Section 6 of A.P.S.A.L.T.R. 1959, by Sri Utla Kannayya S/o Kannayya and Avugadda China Devudu S/o Nukayya R/o Yerrampadu (V) Rajavomangi (M), East Godavari against the orders of the Additional Agent to Government, Rampachodavaram in CMA No.14/2005, Dated: 23-7-2005 - Dismissed - Orders - Issued.

SOCIAL WELFARE (LTR-2) DEPARTMENT

G.O. Ms. No: 230

Dated:24-11-2008.

Read the following:

1. From Sri. Sanaka Narasimha Rao, Counsel for the Petitioner in Revision Petition dt:24-9-2005.
2. From Hon'ble High Court of Andhra Pradesh in W.P No.22689/2005, dt:21-10-2005.
3. Government Memo No.1267/LTR-2/2006 dt:17-6-2006.
4. From the PO ITDA, Rampachodavaram in R.C. No.T8/Memo No.1267/LTR-2/2006 dt:17-6-2006.
5. Government Memo No.1267/LTR-2/2006 dt:23-8-2007.

ORDER:

In the reference 1st read above Sri Utla Kannayya S/o Kannayya and one another has filed a Revision Petition before the Government against the orders of the Additional Agent to Government in CMA No.14/2005 dt:23-7-2005 in respect of lands admeasuring Acres 9.28 in Sy.No.17/1 and Acres 2.47 in Sy.No.17/2 of Yerrampadu (V) Rajavommangi (M) of East Godavari District. The main grounds of the appellant in the Revision Petition among others are:

- i) The Government authorities cannot take away the lands which were reclaimed and made cultivable by the petitioner.
- ii) The petitioners neither purchased the lands from the tribals nor the tribals transferred the lands to the petitioners.
- iii) The petitioners started cultivation of the land even prior to 1970 and while continuing to cultivate the land he has been paying the revenue to the Government.

2. The brief facts of the case is that a case was filed by the Special Deputy Tahasildar (TW), Rajavommangi (M) against Sri Utla Kannayya S/o Nukayya for restoration of P.S land to Government after ejecting the respondent (Sri Utla Kannayya). Sri Utla Kannayya S/o Kannayya, respondent in LTRP No.235/2004 deposed that his grand father cleared jungle, brought it to cultivation and now he is cultivating Acres 1.50, his sister Anumareddi Nukalamma of Acres 4.64, balance his daughters, while SY.No.17/2 is with his relative Avagadda Chittamma, and he stated that tribals never cultivated it and all are residing huts on P.S land, and requested to dismiss the appeal. After perusal of the records the Special Deputy Collector (TW) held that the adangal confirms the encroachment of respondents on P.S land. The tax receipts dt:6-9-1963 onwards he paid tax for land on patta 12, 28 but not for the Government P.S land and concluded that the possession of non-tribal respondents on Government land is on violation of Section 3 (1) (a) of Regulation 1/70 and also the executive directions of Government and ordered for ejection of non-tribal respondents from P.S. land and for restoration of the same to Government for onward assignment to eligible tribals in LTRP 235/2004 dt:29-12-2004. Aggrieved by the order of the Special Deputy Collector (TW), Sri Utla Kannayya and others had filed an appeal before the Additional Agent to Government. The Additional Agent to Government after examining the records and written arguments observed, that there is no dispute to the fact that the P.S land is

a Government land situated in scheduled area and the appellants are non-tribals. The Appellants have not produced any proof of title over the land and it has been an encroachment as admitted by the appellants in their argument that they brought the Government land into cultivable land. The counsel for the Respondent argued rightly that the land is Government land and the appellants are encroachers. No proof of documentary evidence was produced. And they are liable to be evicted and the land be restored to Government. The Hon'ble High Court of Andhra Pradesh in W.P No.9215/2004 filed by Masarapu Devudu and another Vs the Additional Agent to Government, Rampachodavaram and others observed that the Government land in Agency area cannot be assigned to any Non-Tribal after 1970 and as such the principle of resjudicata does not operate for the reason that the tribal could not produce sufficient evidence. The Additional Agent to Government dismissed the appeal and upheld the orders of the Lower Court in LTRP No.235/2004, (common order along with Nos.230, 231, 233, 234, 236 & 237/2004, dated:29-12-2004 of the Special Deputy Collector (TW), Rampachodavaram) considering its validity in Sy.No.17/1 Acres 9.28 and Sy.No.17/2 Acres 2.47 Yerrampadu (V) of Rajavommangi (M) to Government for onward assignment to eligible tribal beneficiaries vide CMA No. 14/2005 dt:23-7-2005. Aggrieved by the order of the Additional Agent to Government Sri Utlā Kannayya & others filed a Revision Petition before the Government.

3. In the reference 3rd read above, the Agent to Government Rampachodavaram was requested to furnish Para-wise remarks, and case records and the same were furnished in reference 4th read above. After examination the case records notices were issued to the concerned to attend the hearing of the Revision Petition on:31-8-2007. Petitioners absent and counsel for the petitioners was present and argued the case corroborating grounds of the Revision Petition.

4. Government after examination of the material evidence on record found that:-

- i) The PS land is a Government land situated in Yerrampadu Village of Rajavommangi Mandal in East Godavari Dist.
- ii) The petitioners are non-tribals and illegally occupied the Govt. land in Sy.No.17-1 measuring Acs.9.28 (by the 1st petitioner) and Sy.No.17-2 measuring Acs.2.47 (by the 2nd petitioner).
- iii) The petitioners admitted before the lower court that they have occupied the Govt. land. They failed to produce any documentary evidence in support of their claim over the disputed land.
- iv) The illegal occupation of the Government land in the Scheduled Areas by the non-tribal is objectionable as per the Revenue Boarding Standing Orders and also the A.P. Land Encroachment Act, 1905, as that the petitioner's occupational right is prima-facie is illegal and cannot be ratified at any time. The illegal occupation itself is a notice under the law. Moreover, the G.O.Ms.No.971 Revenue (B) Deptt., dt.7-10-1969 prohibits all assignments of Govt. lands in agency area in favour of Non-tribals.
- v) As it is clearly held that the non-tribal is in illegal possession of Govt. land in the scheduled village, there is no point to keep the case pending any further.

5. Government after careful examination of the case records find no reason to interfere with the order of the Additional Agent to Government, Rampachodavaram in CMA No:14/2005, dt:23-7-2005 and accordingly dismiss the Revision Petition. The stay granted by the Hon'ble High Court of Andhra Pradesh in W.P No:22698/2005 will become inoperative.

6. The Collector, East Godavari District / Additional Agent to Government, Rampachodavaram is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,

Prl. Secretary to Government.

To

The Collector, East Godavari District.
(with RPAD of the following records)

1. CMA No.14/2005 pp 1-40 only.
2. LTRP No.235/2004 pp 1-30 only.

The Additional Agent to Government, Rampachodavaram, East Godavari.

The Special Deputy Collector (TW), Rajavommamgi (M), East Godavari.

The Special Deputy Tahasildar, Rajavommamgi (M), East Godavari.

The Mandal Revenue Officer, Rajavommamgi (M), East Godavari District.

Sri. Sanaka Narasimha Rao, Advocate,

Tarani, Plot No.3, H.No.11-20-5,

Behind Huda Complex park, Saroor Nagar, Hyderabad.

Sri Utla Kannayya S/o Kannayya,

R/o Yerrampadu (V) Rajavommamgi (M), East Godavari.

Sri Avugadda China Devudu S/o Nukayya,

R/o Yerrampadu (V) Rajavommamgi (M), East Godavari.

Copy to the P.S to M (TW & RAID).

SF /SC

// FORWARDED BY ORDER //

SECTION OFFICER